

Regular Session, 2012

# ACT No. 604

HOUSE BILL NO. 916

BY REPRESENTATIVE ST. GERMAIN

1 AN ACT

2 To amend and reenact R.S. 36:4(Z), R.S. 38:81(C), 101(A) and (B), 102, 103, 107(A), 108,  
3 109, 213(A) and (D), and 330.1(K)(6), R.S. 49:214.1(E) and (F), 214.2(1) through  
4 (12), 214.3.1(A)(3), 214.4.2(A)(introductory paragraph) and (C)(1), 214.5.1(A),  
5 (B)(introductory paragraph) and (15), and (C), 214.5.2(A)(introductory paragraph),  
6 (5) and (11), (B)(introductory paragraph), (1), (3), and (5), (C), (D), (E), and (F),  
7 214.5.3(A)(1), (B), (D)(2)(introductory paragraph), (E)(1), (4), and (5),  
8 214.5.4(G)(8), 214.5.7, 214.6.1, 214.6.2(A), (B), (C), (D)(introductory paragraph)  
9 and (1), and (E), 214.6.3(A)(4) and (B), 214.6.6(A)(introductory paragraph), (C), and  
10 (D), 214.6.7(A), (B), (E)(3), and (F), 214.6.9, and 214.61(A) and (D)(2), R.S.  
11 56:421(B)(13) and (E)(4), 424(H), 432.1(A), (B), (C)(introductory paragraph) and  
12 (1), and (D)(1), and 432.2 and to repeal R.S. 49:214.3.1(A)(4) and 214.6.8, relative  
13 to the Coastal Protection and Restoration Authority and the Office of Coastal  
14 Protection and Restoration; to change the names of each entity; to provide relative  
15 to the powers, duties, and authorities of each entity; to provide relative to  
16 appointment to the Coastal Protection and Restoration Authority Board; and to  
17 provide for related matters.

18 Be it enacted by the Legislature of Louisiana:

19 Section 1. R.S. 36:4(Z) is hereby amended and reenacted to read as follows:

20 §4. Structure of executive branch of state government

21 \* \* \*

22 Z. The Governor's Advisory Commission on Coastal Protection, Restoration  
23 and Conservation (R.S. 49:214.4.1) and the Coastal Protection and Restoration  
24 Authority Board (R.S. 49:214.5.1 et seq.), and the ~~Office of~~ Coastal Protection and

1 Restoration Authority (R.S. 49:214.6.1 et seq.), shall be placed within the office of  
 2 the governor and shall perform and exercise their powers, duties, functions, and  
 3 responsibilities as provided by law.

4 \* \* \*

5 Section 2. R.S. 38:81(C), 101(A) and (B), 102, 103, 107(A), 108, 109, 213(A) and  
 6 (D), and 330.1(K)(6) are hereby amended and reenacted to read as follows:

7 §81. Governor authorized to enter into contracts with federal authorities

8 \* \* \*

9 C. The governor may utilize to whatever extent they are empowered by law  
 10 to function the various levee boards or boards of levee commissioners of this state,  
 11 the Department of Transportation and Development, the Coastal Protection and  
 12 Restoration Authority, the ~~Office of~~ Coastal Protection and Restoration Authority  
 13 Board, or any other state board, commission, agency, or political subdivision. These  
 14 authorities shall, to the fullest extent of their capacity, fully cooperate and coordinate  
 15 their efforts under his direction in carrying out and accomplishing the obligations  
 16 and requirements of the agreements and undertakings.

17 \* \* \*

18 §101. West Bank Hurricane Protection Projects

19 A. For the purpose established in this Chapter, the Coastal Protection and  
 20 Restoration Authority Board shall be designated the nonfederal sponsor for the  
 21 construction of the Westwego to Harvey Canal hurricane protection project, for  
 22 modifications of the Westwego to Harvey Canal hurricane protection project to  
 23 include the Lake Cataouatche area, the East of Harvey Canal hurricane protection  
 24 project, and for any other future project modifications or additions within the  
 25 parishes of Jefferson, Orleans, Plaquemines, and St. Charles. The chairman of the  
 26 Coastal Protection and Restoration Authority Board is authorized to negotiate and  
 27 contract with the United States of America to provide such assurances and  
 28 cooperation as are necessary for the purposes authorized in this Chapter, including  
 29 the negotiation and contract for any future modifications to the current local  
 30 cooperation agreement between the West Jefferson Levee District and the

1 Department of the Army for the Westwego to Harvey Canal hurricane protection  
2 project. The chairman of the Coastal Protection and Restoration Authority Board or  
3 the executive director of the Coastal Protection and Restoration Authority is  
4 authorized to contract for the construction of these projects, including any future  
5 project modifications or additions, and for the financing of the nonfederal share of  
6 the construction cost by the United States to be repaid by the state, with interest over  
7 a thirty-year period.

8 B. The chairman of the Coastal Protection and Restoration Authority Board  
9 or the executive director of the Coastal Protection and Restoration Authority is  
10 authorized to proceed and cooperate in the planning, engineering, design, and  
11 construction of the Westwego to Harvey Canal hurricane protection project, for  
12 modifications of the Westwego to Harvey Canal hurricane protection project to  
13 include the Lake Cataouatche area, the East of Harvey Canal hurricane protection  
14 project, and for any other future project modifications or additions within the  
15 parishes of Jefferson, Orleans, Plaquemines, and St. Charles; to wit, providing the  
16 highest level of hurricane protection, consisting of levees, floodwall, floodgates, and  
17 related structures, as may be economically justified for those portions of Jefferson,  
18 Orleans, Plaquemines, and St. Charles parishes located on the west bank of the  
19 Mississippi River generally between the easternmost guide levee of the Davis Pond  
20 Freshwater Diversion Project in St. Charles Parish and the community of Oakville,  
21 Louisiana, in Plaquemines Parish.

22 \* \* \*

23 §102. Powers

24 A. The Coastal Protection and Restoration Authority Board and the Coastal  
25 Protection and Restoration Authority may do all things necessary to carry out the  
26 purposes of this Chapter, including but not limited to the things expressly provided  
27 for in this Section.

28 B. The Coastal Protection and Restoration Authority Board and the Coastal  
29 Protection and Restoration Authority may enter into contracts and agreements of any  
30 nature for the purposes of this Chapter with any person either natural or artificial,

1 corporation, association, or other entity, including public corporations, levee  
2 districts, port authorities, state departments, agencies, parishes, municipalities, the  
3 United States government and agencies thereof, or any combination thereof or with  
4 instrumentalities of every kind, and may designate any department, agency,  
5 municipality, parish, levee district, and industrial district, or other political  
6 subdivision of the state as its agent to carry out the purposes of and the powers  
7 granted under this Chapter. The chairman of the Coastal Protection and Restoration  
8 Authority Board or the executive director of the Coastal Protection and Restoration  
9 Authority may negotiate with and enter into contracts or other agreements with any  
10 such person or entity concerning the joint administration of the project, including  
11 jurisdictional aspects of the state's administration of the project, and providing lands,  
12 servitudes and rights-of-way, and the relocation of project facilities and may engage  
13 jointly in the exercise of any power and in the construction of any facilities and  
14 improvements for the purposes of the project on any basis, including matching of  
15 funds, which the participating entities may undertake under any provision of general  
16 or special law.

17 C. The Coastal Protection and Restoration Authority Board and the Coastal  
18 Protection and Restoration Authority may institute or defend in courts of competent  
19 jurisdiction, including for the purposes of this Chapter, the courts and administrative  
20 tribunals of the United States of America, any legal proceedings that may be  
21 necessary or required to compel compliance with this Chapter or any actions taken  
22 hereunder or that may arise out of the performance of the obligations and duties  
23 imposed by this Chapter.

24 D. The powers granted under this Chapter shall be regarded as supplemental  
25 to powers conferred on the Coastal Protection and Restoration Authority Board and  
26 the Coastal Protection and Restoration Authority by other laws.

27 §103. Coordination and cooperation

28 A. It is the policy of this Chapter that the West Bank hurricane protection  
29 projects be pursued so that there is full coordination and cooperation between all  
30 federal and state entities that have complementing or overlapping interests and

1 authority in the projects. The chairman of the Coastal Protection and Restoration  
2 Authority Board or the executive director of the Coastal Protection and Restoration  
3 Authority is authorized to coordinate all of the state and local governmental aspects  
4 of the projects so that there is an orderly development of the project.

5 B. The chairman of the Coastal Protection and Restoration Authority Board  
6 or the Coastal Protection and Restoration Authority is authorized to call upon the  
7 West Jefferson Levee District, the Orleans Levee District, Plaquemines Parish, St.  
8 Charles Parish, and all other commissions and districts and state agencies,  
9 departments, and political subdivisions of the state for full and complete cooperation  
10 and assistance in carrying out the provisions of this Chapter, and all such entities are  
11 hereby directed and it shall be their duty to cooperate and assist the department to the  
12 fullest extent possible.

13 \* \* \*

14 §107. Lower Atchafalaya River interim flood protection projects

15 A. For the purpose established in this Chapter and for the purposes of  
16 designating the Coastal Protection and Restoration Authority Board as the nonfederal  
17 sponsor for the construction of the Lower Atchafalaya River interim flood protection  
18 project, the chairman of the Coastal Protection and Restoration Authority Board may  
19 negotiate and contract with the United States to provide such assurances and  
20 cooperation as is necessary. The chairman of the Coastal Protection and Restoration  
21 Authority Board or executive director the Coastal Protection and Restoration  
22 Authority is authorized to contract for the construction of these projects and for the  
23 financing of the nonfederal share of the construction cost by the United States to be  
24 repaid by the state, with interest.

25 \* \* \*

26 §108. Powers

27 A. The Coastal Protection and Restoration Authority Board or the Coastal  
28 Protection and Restoration Authority may do all things necessary to carry out the  
29 purposes of this Chapter, including but not limited to the things expressly provided  
30 for in this Section.

1           B.(1) The chairman of the Coastal Protection and Restoration Authority  
2           Board or the executive director of the Coastal Protection and Restoration Authority  
3           may enter into contracts and agreements of any nature for the purposes of this  
4           Chapter with any person, natural or artificial, corporation, association or other entity,  
5           including public corporations, levee districts, port authorities, state departments,  
6           agencies, parishes, municipalities, the United States government and agencies  
7           thereof, or any combination thereof or with instrumentalities of every kind, and may  
8           designate any department, agency, municipality, parish, levee district, and industrial  
9           district or other political subdivision of the state as its agent to carry out the purposes  
10          of the powers granted under this Chapter.

11          (2) The chairman of the Coastal Protection and Restoration Authority Board  
12          or the executive director of the Coastal Protection and Restoration Authority may  
13          negotiate with and enter into contracts or other agreements with any such person or  
14          entity concerning the joint administration of the project, including jurisdictional  
15          aspects of the state's administration of the project, and providing lands, servitudes,  
16          and rights-of-way, the relocation of project facilities and may engage jointly in the  
17          exercise of any power and in the construction of any facilities and improvements for  
18          the purposes of the project on any basis, including matching of funds, which the  
19          participating entities may undertake under any provision of general or specific law.

20          C. The chairman of the Coastal Protection and Restoration Authority Board  
21          or the executive director of the Coastal Protection and Restoration Authority may  
22          institute or defend in courts of competent jurisdiction, including for the purposes of  
23          this Chapter the courts and administrative tribunals of the United States, any legal  
24          proceedings that may be necessary or required to compel compliance with this  
25          Chapter or any actions taken hereunder or that may arise out of the performance of  
26          the obligations and duties imposed by the Chapter.

27          D. The powers granted under this Chapter shall be regarded as supplemental  
28          to powers conferred on the Coastal Protection and Restoration Authority Board or  
29          the Coastal Protection and Restoration Authority by other laws.

30          §109. Coordination and cooperation

A. It is the policy of this Chapter that the Lower Atchafalaya interim flood protection projects be pursued so that there is full coordination and cooperation between all federal and state entities that have complementing or overlapping interests and authority in the projects. The chairman of the Coastal Protection and Restoration Authority Board or the executive director of the Coastal Protection and Restoration Authority may coordinate all of the state and local governmental aspects of the projects so that there is an orderly development of the project.

B. The chairman of the Coastal Protection and Restoration Authority Board or the executive director of the Coastal Protection and Restoration Authority may call upon the cities of Morgan City and Berwick, and all other commissions and districts and state agencies, departments, and political subdivisions of the state for full and complete cooperation and assistance in carrying out the provisions of this Chapter, and all such entities are hereby directed and it shall be their duty to cooperate and assist the department to the fullest extent possible.

\* \* \*

§213. Riding or hauling on levees prohibited

A. No person shall ride, drive, or haul upon the public levees or integrated coastal protection projects or their rights-of-way except where, in the judgment of the levee commissioners of a district and the Department of Transportation and Development, or, for levees or integrated coastal protection projects in the coastal area as defined in R.S. 49:214.2(3), the ~~Office of Coastal Protection and Restoration~~ Authority, ample provision has been made to guard against any damage to which the levees or integrated coastal protection projects may thereby be exposed from wear, tear, and abuse. Each levee district shall publish guidance, erect signage, and require special permits as they deem appropriate to allow them to make provisions for limited riding, driving, or hauling.

\* \* \*

D. Nothing in this Section shall interfere with the crossing over any public levees, at ramps or inclines established under plans and specifications of the Department of Transportation and Development, or, for levees or integrated coastal

1 protection projects in the coastal area as defined in R.S. 49:214.2(3), the ~~Office of~~  
2 Coastal Protection and Restoration Authority. Nothing in this Section shall interfere  
3 with the ability of the Coastal Protection and Restoration Authority Board to carry  
4 out its responsibilities as the local sponsor for all integrated coastal protection  
5 projects, in its jurisdiction, pursuant to R.S. 49:214.1(F).

6 \* \* \*

7 §330.1. Southeast Louisiana Flood Protection Authority-East and Southeast  
8 Louisiana Flood Protection Authority-West Bank; territorial jurisdiction;  
9 board of commissioners; appointments; terms; compensation; vacancy;  
10 officers; meetings; domicile

11 \* \* \*

12 K.

13 \* \* \*

14 (6) Notwithstanding any provision of law to the contrary, except for  
15 membership on the Coastal Protection and Restoration Authority Board, no member  
16 of a board shall serve at the same time on any other board or commission, the  
17 membership of which is appointed in whole or in part by an elected official or by a  
18 public body the majority of the membership of which consists of elected officials.  
19 "Elected official" as used in this provision means any person holding an office in a  
20 governmental entity which is filled by the vote of the appropriate electorate and  
21 includes any person appointed to fill a vacancy in such offices.

22 \* \* \*

23 Section 3. R.S. 49:214.1(E) and (F), 214.2(1) through (12), 214.3.1(A)(3),  
24 214.4.2(A)(introductory paragraph) and (C)(1), 214.5.1(A), (B)(introductory paragraph) and  
25 (15), and (C), 214.5.2(A)(introductory paragraph), (5), and (11), (B)(introductory  
26 paragraph), (1), (3), and (5), (C), (D), (E), and (F), 214.5.3(A)(1), (B), (D)(2)(introductory  
27 paragraph), (E)(1), (4), and (5), 214.5.4(G)(8), 214.5.7, 214.6.1, 214.6.2(A), (B), (C),  
28 (D)(introductory paragraph) and (1), and (E), 214.6.3(A)(4) and (B), 214.6.6(A)(introductory  
29 paragraph), (C), and (D), 214.6.7(A), (B), (E)(3), and (F), 214.6.9, and 214.61(A) and (D)(2)  
30 are hereby amended and reenacted to read as follows:



§214.1. Purpose and intent

\* \* \*

E. It is the intention of the legislature that comprehensive integrated coastal protection be elevated to a position within state government of high visibility and action and that hurricane protection, storm damage reduction, flood control, and conservation and restoration of the coastal area be of high priority within that structure. To provide aggressive state leadership, direction, and consonance in the development and implementation of policies, plans, and programs to achieve comprehensive integrated coastal protection, including the encouragement of multiple uses of the coastal area and to achieve a proper balance between development and conservation, restoration, creation, and nourishment of renewable coastal resources, the legislature places responsibility for the direction and development of the state's comprehensive master coastal protection plan with the Coastal Protection and Restoration Authority Board within the office of the governor. In order to maximize the effectiveness of integrated coastal protection efforts, the Coastal Protection and Restoration Authority Board shall use an integrated effort to jointly coordinate master plan and annual plan development with the ~~Office of Coastal Protection and Restoration Authority~~, state agencies, political subdivisions, including flood protection authorities, levee districts, and federal agencies.

F. Notwithstanding any other provision of state law and in accordance with the requirements of the Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act of 2006, the Coastal Protection and Restoration Authority Board is established, authorized, and empowered to carry out any and all functions necessary to serve as the single entity responsible to act as the local sponsor for construction, operation and maintenance of all of the hurricane, storm damage reduction and flood control projects in areas under its jurisdiction, including the greater New Orleans and southeast Louisiana area.

§214.2. Definitions

As used in this Part, the following terms shall have the ~~meaning~~ meanings ascribed to them below:

(1) "Annual plan" means the state integrated coastal protection plan submitted annually to the legislature as provided in this Part including amendments to the plan, as determined by the ~~authority~~ board. Such plan shall provide for protecting, conserving, enhancing, and restoring the coastal area through the construction and management of integrated coastal protection projects and programs pursuant to the provisions of R.S. 49:214.5.3.

(2) "Authority" means the Coastal Protection and Restoration Authority.

(3) "Board" means the Coastal Protection and Restoration Authority Board.

(4) "Coastal area" means the Louisiana Coastal Zone and contiguous areas subject to storm or tidal surge and the area comprising the Louisiana Coastal Ecosystem as defined in Section 7001 of 110 Public Law 114.

~~(4)~~ (5) "Conservation and restoration" means the conservation, protection, enhancement, and restoration of coastal resources including but not limited to coastal wetlands, marshes, cheniers, ridges, coastal forests, and barrier islands, shorelines, coastal passes, or reefs through the construction and management of coastal resources enhancement projects, including privately funded marsh management projects or plans, and those activities requiring a coastal use permit which significantly affect such projects or which significantly diminish the benefits of such projects or plans insofar as they are intended to conserve or enhance coastal resources consistent with the legislative intent as expressed in R.S. 49:214.1.

~~(5)~~ (6) "Executive assistant" means the special assistant to the governor for coordination of coastal activities as delineated in R.S. 49:214.3.1.

~~(6)~~ (7) "Executive director" means the person appointed to serve as the head of the ~~Office of~~ Coastal Protection and Restoration Authority.

~~(7)~~ (8) "Fund" means the Coastal Protection and Restoration Fund.

~~(8)~~ (9) "Hurricane protection" means systems to provide protection against tidal and storm surges.

(9) (10) "Infrastructure" means publicly owned facilities or systems in the coastal area that are negatively impacted by coastal land loss or rising seas, and that serve a critical public purpose and are consistent with the priorities stated in the master plan and the eligible uses of the Gulf of Mexico Energy Security Act of 2006. The term shall not include levee, hurricane protection, or coastal restoration systems.

(11) "Integrated coastal protection" means plans, projects, policies, and programs intended to provide hurricane protection or coastal conservation or restoration, and shall include but not be limited to coastal restoration; coastal protection; infrastructure; storm damage reduction; flood control; water resources development; erosion control measures; marsh management; diversions; saltwater intrusion prevention; wetlands and central wetlands conservation, enhancement, and restoration; barrier island and shoreline stabilization and preservation; coastal passes stabilization and restoration; mitigation; storm surge reduction; or beneficial use projects.

(H) (12) "Master plan" or "comprehensive master coastal protection plan" means the long-term comprehensive integrated coastal protection plan combining coastal restoration, coastal zone management, storm damage reduction, hurricane protection, flood control, and the protection, conservation, restoration, and enhancement of coastal wetlands, marshes, cheniers, ridges, coastal forests, and barrier shorelines or reefs, including amendments, as determined by the authority board to the plan. It shall include but not be limited to state and political subdivision operations plans.

~~(12) "Office" means the Office of Coastal Protection and Restoration.~~

\* \* \*

### §214.3.1. Governor's Executive Assistant for Coastal Activities

### A. The executive assistant

\* \* \*

(3) The executive assistant shall employ necessary staff to carry out the duties and functions provided in this Part or as otherwise provided by law and may seek and utilize the assistance of personnel of the ~~Office of Coastal Protection and~~

5 \* \* \*

7 A. The America's WETLAND Trail may be established in the Office of  
8 Coastal Protection and Restoration Authority.

9 \* \* \*

C.(1) The ~~Office of~~ Coastal Protection and Restoration Authority may develop and implement a plan for the trail which shall at a minimum meet the objectives in Paragraph (2) of this Subsection.

\* \* \*

### §214.5.1. Coastal Protection and Restoration Authority Board

A. The Coastal Protection and Restoration Authority Board is hereby created within the office of the governor. The ~~authority~~ board is hereby established, and shall exercise the powers and duties hereinafter set forth or otherwise provided by law. The provisions of R.S. 44:5(A) shall not be applicable to any activities or records of or pertaining to the authority.

B. The Coastal Protection and Restoration Authority Board shall consist of the following members:

\* \* \*

(15) Any member of the ~~authority~~ board who represents a political subdivision shall recuse himself from deliberations and from voting on any matter concerning the taking of action against that political subdivision for lack of compliance with the plan.

C. The executive assistant shall serve as chairman and shall develop procedures for the operation of the ~~authority~~ board.

§214.5.2. Functions and responsibilities; Coastal Protection and Restoration

Authority Board

A. The ~~authority~~ board shall:

\* \* \*

(5) Be authorized to delegate any of its powers, duties, and functions to the chairman of the ~~authority board~~, to the executive director of the ~~Office of Coastal Protection and Restoration~~ Authority, or to state agencies, political subdivisions, including flood protection authorities, or levee districts.

\* \* \*

(11) Have the power to enter into any agreement with a parish governing authority located wholly or partially within the coastal area but which is not part of

1 a levee district for the construction, operation, maintenance, repair, rehabilitation, or  
2 replacement of any coastal protection, conservation and restoration, hurricane  
3 protection, infrastructure, storm damage reduction, integrated coastal protection, or  
4 flood control project. The authority board shall have the power to provide in the  
5 agreement for the use and exercise by the parish governing authority of any and all  
6 powers of levee districts or levee and drainage districts.

7 B. The authority board may:

8 (1) Accept and use, in accordance with law, gifts, grants, bequests,  
9 endowments, or funds from any public or private source for purposes consistent with  
10 responsibilities and functions of the authority board and take such actions as are  
11 necessary to comply with any conditions required for such acceptance.

12 \* \* \*

13 (3) Take such other actions not inconsistent with law as are necessary to  
14 perform properly the functions of the authority board.

15 \* \* \*

16 (5) Delegate signing authority for contracts to the chairman of the authority  
17 board, the executive director of the ~~Office of~~ Coastal Protection and Restoration  
18 Authority, or an authorized designee of either. Such designation by the chairman or  
19 the executive director shall be by authentic act.

20 C. Approval by the authority board shall be required for any request by a  
21 state agency or department for any funds to finance research, programs, mitigation,  
22 or projects involving integrated coastal protection, including hurricane protection or  
23 the conservation and restoration of coastal wetlands resources; however, this  
24 Subsection shall not affect self-generated or dedicated funds.

25 D. No state agency or entity shall enter into a contract with the United States  
26 Army Corps of Engineers which would require the state to assume liability for or  
27 provide the cost of operations and maintenance for a hurricane protection project  
28 unless the contract provides for independent third-party review and evaluation in  
29 accordance with the best available science and technical capabilities to confirm the  
30 project's anticipated level of protection against hurricane flooding prior to the state

1 or political subdivision assuming liability and operations and maintenance  
2 obligations. The independent third-party reviewer and evaluator provided for in the  
3 contract shall be approved by both the United States Army Corps of Engineers and  
4 the nonfederal sponsor. However, the provisions of this Subsection shall not apply  
5 to contracts for routine maintenance or other minor construction or repairs, or in  
6 cases where there is imminent threat to life or property, or when the chairman of the  
7 Coastal Protection and Restoration Authority Board, with the approval of the ~~Coastal~~  
8 ~~Protection and Restoration Authority board~~, determines that an emergency exists  
9 whereby compliance with the provisions of this Subsection would create an  
10 unreasonable hardship.

11 E. Notwithstanding any other provision of law to the contrary, the  
12 Department of Wildlife and Fisheries may enter into a cooperative endeavor  
13 agreement with the authority, board, or a levee district to allow the use of the  
14 department's personnel, equipment or lands owned or leased by the state to satisfy  
15 wetland mitigation requirements imposed upon the authority or levee district by  
16 federal, state, or local law.

17 F. ~~Notwithstanding~~ Upon the approval by the board, and notwithstanding any  
18 law to the contrary, upon approval by the authority, the authority, the state, or any  
19 political subdivision thereof, may use its own employees or equipment for satisfying  
20 any mitigation requirements resulting from or related to an integrated coastal  
21 protection project.

22 §214.5.3. Coastal protection annual plans; development; priorities

23 A.(1) The ~~authority~~ board shall, in accordance with the procedures set forth  
24 herein, develop a master plan for integrated coastal protection and an annual plan for  
25 integrated coastal protection for protecting, conserving, enhancing, and restoring the  
26 coastal area through the construction and management of integrated coastal  
27 protection projects and programs, including privately funded marsh management  
28 projects or plans, and addressing those activities requiring a coastal use permit which  
29 significantly affect such projects, all consistent with the legislative intent as  
30 expressed in R.S. 49:214.1, and which plan shall be subject to the approval of the

1 legislature as provided in Subsection B of this Section and Subsection E of this  
2 Section. In addition, the ~~authority~~ board, in accordance with the procedures set forth  
3 herein including legislative approval, shall review, revise, and amend the master plan  
4 when necessary or, at a minimum, every five years.

5 \* \* \*

6 B. The ~~authority~~ board shall develop the master and annual plans in  
7 accordance with the following procedure:

8 (1) The ~~authority~~ board shall conduct not less than three public hearings in  
9 separate locations in the western, central, and eastern areas of the coastal area for the  
10 purpose of receiving comments and recommendations from the public and elected  
11 officials. All public hearings must be held at least sixty days prior to the submission  
12 of the plans to the legislature.

13 (2) At least two weeks prior to each public hearing the ~~authority~~ board shall  
14 contact the parish governing authorities, regional flood protection authorities, levee  
15 districts, and the state legislators of the parishes in the coastal area for the purpose  
16 of soliciting their comments and recommendations and notifying them of the public  
17 hearing to be held in their area.

18 (3) Ten days prior to the first such public hearing the ~~authority~~ board shall  
19 publish in the state register and the official state journal the schedule of public  
20 hearings setting out the location, place, and time of all the hearings.

21 (4) At least seven days prior to each hearing the ~~authority~~ board shall publish  
22 a notice of the hearing in the official journal of each parish within the area of the  
23 hearing. The notice of a hearing shall have been published in the official journal of  
24 each parish in the coastal area prior to the final scheduled public hearing. The  
25 ~~authority~~ board may provide for additional public hearings when necessary upon at  
26 least three days notice published in the official journal of the parishes in the area of  
27 the hearing and written notice to the parish governing authorities.

28 (5) The ~~authority~~ board shall receive written comments and  
29 recommendations until thirty days prior to the submission of the master and annual  
30 plans to the legislative committees.



1

\* \* \*

1 D.

2 \* \* \*

3 (2) Prior to recommending any project for inclusion in the master plan, the  
4 ~~authority~~ board shall identify and declare in writing:

5 \* \* \*

6 E.(1) After adoption by the ~~authority~~ board, the master plan shall be  
7 submitted to the House Committee on Natural Resources and Environment and the  
8 Senate Committee on Natural Resources and the House Committee on  
9 Transportation, Highways and Public Works and the Senate Committee on  
10 Transportation, Highways and Public Works for approval. In addition, the annual  
11 plan shall be submitted to the House Committee on Natural Resources and  
12 Environment and the Senate Committee on Natural Resources and the House  
13 Committee on Transportation, Highways and Public Works and the Senate  
14 Committee on Transportation, Highways and Public Works on or before the fifteenth  
15 day of the regular legislative session of each year. The committees shall take action  
16 on the annual plan on or before June first of each calendar year.

17 \* \* \*

18 (4) If the legislature approves the master plan, or if the legislature fails to  
19 take action on the master plan within sixty days after the plan is submitted, the  
20 ~~authority board~~ shall ~~implement~~ provide for implementation of the plan as submitted.  
21 If the legislature approves the annual plan, or if the legislature fails to disapprove the  
22 annual plan by July first, the ~~authority~~ board shall ~~implement~~ provide for  
23 implementation of the plan as submitted. The projects and programs provided for  
24 in the annual plan shall be undertaken in conformity with the order of priority as  
25 contained in the annual plan.

26 (5) At any time subsequent to the adoption or implementation of a plan in  
27 accordance with the procedure set forth herein, the ~~authority~~ board may amend or  
28 supplement the plan to add or delete projects and programs. No project shall be  
29 added or deleted unless and until the amendment to the plan is approved as provided

1            herein. Any such amendment to the plan submitted to the legislature shall conform  
2            to the requirements specified in Subsections B and D of this Section.

#### §214.5.4. Funding and resource allocation

\* \* \*

G. The money in the Coastal Protection and Restoration Fund is subject to appropriations by the legislature for the purposes of integrated coastal protection. The money in the fund may be used only for those projects and programs which are consistent with the statement of intent, R.S. 49:214.1, and the annual plan as it pertains to the integrated coastal protection and may include but not be limited to the following purposes:

\* \* \*

(8) The administration and operation of the ~~Office of Coastal Protection and Restoration~~ Authority, the Coastal Protection and Restoration Authority Board, the Governor's Advisory Commission on Coastal Protection, Restoration, and Conservation, and the Coastal Protection and Restoration Financing Corporation.

\* \* \*

§214.5.7. Legal representation of the Authority Board; attorney general

The attorney general or his designee shall be the legal advisor to the ~~authority~~ board, shall counsel and advise the authority, and shall represent the ~~authority~~ board in all legal proceedings.

\* \* \*

~~§214.6.1. Office of Coastal Protection and Restoration Authority~~

A. The ~~Office of~~ Coastal Protection and Restoration Authority is created and shall be a body corporate with the power to sue and be sued. The domicile of the office shall be in Baton Rouge. The authority shall:

(1) ~~The Office of Coastal Protection and Restoration has~~ Have all of the rights, powers, and immunities incident to corporations. It may acquire, own, administer, alienate, and otherwise dispose of all kinds of property, movable and immovable, ~~tangible and intangible~~ corporeal and incorporeal; contract; adopt, alter, or destroy an official seal; sue and be sued, implead, and be impleaded. Except as otherwise expressly provided by this Chapter, ~~the office~~ authority may perform every

1 act necessary, convenient, or incidental to the exercise of its power and authority, the  
2 discharge of its duties, or the performance of its functions.

3 (2) ~~The office shall be~~ Be the implementation and enforcement arm of the  
4 Coastal Protection and Restoration Authority Board. The ~~office~~ authority shall be  
5 directed by the policy set by the Coastal Protection and Restoration Authority Board  
6 as enumerated in R.S. 49:214.1.

7 (3) ~~The office, through~~ Through its offices and officers, ~~shall~~ be responsible  
8 for the implementation and enforcement of the master plan and annual plan. ~~This~~  
9 ~~office~~ The authority shall implement the integration of hurricane protection, storm  
10 damage reduction, flood control, infrastructure, and coastal protection and  
11 restoration efforts in accordance with the master plan and annual plans.

12 (4) ~~The~~ Not be subject to the provisions of R.S. 44:5(A) ~~shall not be~~  
13 ~~applicable in regard~~ to any activities or records of or pertaining to the ~~office~~  
14 authority.

15 B. Executive director and deputy director of the ~~Office of~~ Coastal Protection  
16 and Restoration Authority.

17 (1) There shall be an executive director of the ~~Office of~~ Coastal Protection  
18 and Restoration Authority. He shall report to the Coastal Protection and Restoration  
19 Authority Board for all matters within the jurisdiction and purview of the ~~Coastal~~  
20 ~~Protection and Restoration Authority board~~, and shall work in conjunction with the  
21 executive assistant.

22 (2) The executive director shall be appointed by the governor and shall serve  
23 at the pleasure of the governor.

24 (3) The executive director, or his designee shall have authority, subject to the  
25 budgetary constraints of the funding provided in R.S. 49:214.5.4, and in accordance  
26 with applicable rules and regulations of the civil service commission to employ,  
27 appoint, transfer, assign, terminate, and promote such personnel as is necessary for  
28 the efficient administration of the ~~Office of~~ Coastal Protection and Restoration  
29 Authority.

1                   (4) The executive director, or his designee, shall approve all plans,  
2 specifications, and estimates for the construction of all projects for which the ~~office~~  
3 authority is responsible. He also shall have such other duties as may be assigned to  
4 him by the Coastal Protection and Restoration Authority Board, by the provisions of  
5 this Chapter, or by the laws of this state. He shall report the proceedings of his office  
6 annually to the Coastal Protection and Restoration Authority Board and at such other  
7 times as the ~~Coastal Protection and Restoration Authority board~~ may designate, and  
8 he shall make any additional reports as are required by the ~~Coastal Protection and~~  
9 ~~Restoration Authority board~~.

10                   (5) The executive director, or in his discretion a subordinate or subordinates,  
11 shall administer the programs, projects, and activities approved ~~and funded for~~  
12 funding by the Coastal Protection and Restoration Authority Board relating to and  
13 affecting integrated coastal protection, including conservation, restoration, creation,  
14 and enhancement of coastal wetlands, hurricane protection and flood control in  
15 Louisiana as provided by law and as provided in the master and annual plans, and  
16 other special programs as may be directed by the ~~Coastal Protection and Restoration~~  
17 ~~Authority board~~, except those relative to coastal zone management as provided in  
18 R.S. 49:214.21, et seq.

19                   (6) The executive director shall report annually to the legislature as to the  
20 progress of the projects and programs enumerated in the master plan or annual plans  
21 or any component thereof. For each project or program, estimated construction and  
22 maintenance costs, progress reports, and estimated completion timetables shall be  
23 provided.

24                   (7) The executive director is granted full power and authority to delegate,  
25 assign, or appoint in his discretion any subordinate to perform any function or duties  
26 required by law to be performed by the ~~office~~ authority, except as specifically  
27 provided in this Title. This grant of power and authority shall be liberally construed  
28 to effectuate the purposes of this Chapter.

1                   (8) The executive director shall provide the necessary reports, staff,  
2 assistance, and support to the Coastal Protection and Restoration Authority Board in  
3 order to assist in the development of the master plan and annual plan.

4                   (9) The executive director may appoint ex officio notaries in accordance with  
5 the provisions of R.S. 35:411.

6                   (10) There shall be a deputy executive director of the ~~Office of~~ Coastal  
7 Protection and Restoration Authority. He shall perform all duties defined in this  
8 Section in the absence of the executive director or through authority delegated to him  
9 by the executive director or in conjunction with the duties of the executive director.

10 §214.6.2. Functions and responsibilities; coastal activities

11                   A. The ~~office~~ authority shall administer the programs of the Coastal  
12 Protection and Restoration Authority Board. The executive director may use his  
13 contracting authority, or the contracting authority of any state department or agency,  
14 to implement the provisions of this Chapter. Such contracting authority shall include  
15 construction management at risk, operation and maintenance, design-build, design-  
16 build-operate and maintain, and design-build-finance-operate and maintain, or any  
17 combination of design, construction, finance, and services for operation and  
18 maintenance of an integrated coastal protection project, where appropriate. The  
19 ~~Office of~~ Coastal Protection and Restoration Authority shall have the authority to  
20 execute and implement ~~said~~ contracts entered into ~~under the authority of R.S.~~  
21 ~~49:214.5.2(A)(7)~~ by the board.

22                   B. The ~~office~~ authority shall implement projects relative to the protection,  
23 conservation, enhancement, and restoration of the coastal area of the state through  
24 oversight of integrated coastal projects and programs consistent with the legislative  
25 intent as expressed in R.S. 49:214.1. However, no integrated coastal protection  
26 construction project shall be undertaken except those included in an annual plan  
27 finally approved by the legislature in accordance with the provisions of R.S.  
28 49:214.5.3, regardless of the source of funds for the project, except in cases of  
29 projects undertaken and financed out of the emergency fund, established in the  
30 annual plan. An emergency for which such fund shall be used shall be defined by

1           the ~~authority~~ Coastal Protection and Restoration Authority Board and all funds shall  
2           be spent only in accord with procedures established by the authority board for such  
3           fund. All projects undertaken pursuant to the provisions of this Chapter shall be  
4           either funded through the Coastal Protection and Restoration Fund or other sources  
5           of funding, including but not limited to direct federal aid, grants, gifts, and other  
6           donations received by the state for the purposes of this Chapter.



1 C. The ~~office~~ authority shall:

2 (1) Receive all monies appropriated from the Coastal Protection and  
3 Restoration Fund to the ~~Office of~~ Coastal Protection and Restoration Authority for  
4 implementation of all programs and projects contained in an annual plan developed  
5 by the Coastal Protection and Restoration Authority Board and approved by the  
6 legislature, except that the Department of Natural Resources, office of coastal  
7 management, shall receive any funds allocated in the annual plan for the coastal zone  
8 management program.

9 (2) Have oversight over the administration of all matters related to the study,  
10 planning, engineering, design, construction, extension, improvement, repair, and  
11 regulation of integrated coastal protection.

12 (3) Take such other actions not inconsistent with law as are necessary to  
13 perform the functions of the ~~office~~ authority.

14 (4) Utilize the services of the Department of Natural Resources, office of  
15 management and finance, for accounting and budgetary control, procurement and  
16 contractual management, data processing, management and program analysis,  
17 personnel management and grants management, provided that the secretary of the  
18 Department of Natural Resources shall exercise no authority over the provision of  
19 these services.

20 D. The ~~office~~ authority may:

21 (1) Negotiate and execute contracts, upon such terms as the ~~office~~ authority  
22 may agree, for legal, financial, consulting, or other professional services or personal  
23 services necessary to the conduct of the ~~office~~ authority. In addition, the ~~office~~  
24 authority may enter into contracts for engineering and construction services or  
25 agreements with the federal government, local governing authorities, political  
26 subdivisions, or with other public or private entities for the administration,  
27 implementation, or enforcement of integrated coastal protection projects, programs,  
28 or activities as directed by the Coastal Protection and Restoration Authority Board.

29 \* \* \*

1                   E.(1) ~~The office shall utilize the science and technology capacity of~~  
2                   ~~Louisiana universities through assisting in the formation of a coastal science~~  
3                   ~~consortium to enhance integrated coastal protection programs, projects, and activities~~  
4                   ~~for the following purposes:~~

5                   ~~(a) To identify any uncertainty relating to the physical, chemical, geological,~~  
6                   ~~biological, and cultural baseline conditions in the coastal area.~~

7                   ~~(b) To improve the knowledge of the physical, chemical, ecological,~~  
8                   ~~biological, and cultural baseline conditions in the coastal area.~~

9                   ~~(c) To identify and develop technologies, models, methods, and~~  
10                  ~~demonstrations to carry out the purposes of this Subsection.~~

11                  ~~(d) To advance and expedite the implementation of the master plan. The~~  
12                  ~~board or the authority shall be authorized to solely utilize the science and technology~~  
13                  ~~capacity of Louisiana universities and the water institute to enhance integrated~~  
14                  ~~coastal protection programs, projects, and activities for the following purposes:~~

15                  (a) To identify any uncertainty related to the physical, chemical, geological,  
16                  biological, or cultural baseline conditions in the coastal area.

17                  (b) To improve the knowledge of the physical, chemical, geological,  
18                  biological, or cultural baseline conditions in the coastal area.

19                  (c) To identify and develop technologies, models, methods, and  
20                  demonstrations to carry out the purposes of this Subsection.

21                  ~~(2) The consortium shall be composed of public or private universities from~~  
22                  ~~within or without the state; federal, state, or local government and entities; private~~  
23                  ~~entities; research institutes; and shall be coordinated by a council composed of~~  
24                  ~~members as follows:~~

25                  ~~(a) The chair of the Coastal Protection and Restoration Authority or his~~  
26                  ~~designee, to be a nonvoting member.~~

27                  ~~(b) A representative of Louisiana State University and Agricultural and~~  
28                  ~~Mechanical College appointed by the chancellor.~~

29                  ~~(c) A representative of Tulane University appointed by the president.~~

~~(d) A representative of the University of Louisiana at Lafayette appointed by the president.~~

~~(c) A representative of the University of New Orleans appointed by the chancellor.~~

~~(f) A representative of Nicholls State University appointed by the president.~~

~~(g) A representative of McNeese State University appointed by the president.~~

~~(h) Two representatives of the public and private colleges within the state of Louisiana, or from outside the state, to be appointed on a rotating basis in a manner established in the bylaws of the consortium.~~

(i) ~~Seven members appointed in a manner established in the bylaws of the consortium.~~

~~(3) Terms of service on the council, methods of appointment for certain seats on the council, membership guidelines, election of officers, and other administrative functions of the council and the consortium shall be established in the bylaws of the consortium.~~

(4) In carrying out the provisions of this Subsection, the ~~office~~ Coastal Protection and Restoration Authority Board or the Coastal Protection and Restoration Authority may enter into contracts and cooperative agreements with Louisiana universities or with ~~the consortium~~ the water institute as authorized in this Subsection to enhance integrated coastal protection programs, projects, and activities.

(3) For the purposes of this Subsection, the water institute shall mean The Water Institute of the Gulf, a 501(c)(3) nonprofit entity, incorporated on March 25, 2011, or its successors.

\* \* \*

### §214.6.3. Functions and responsibilities; hurricane protection and flood control

### A. Legislative intent

\* \* \*

(4) This Section provides for the functions, powers, and responsibilities of the Office of Coastal Protection and Restoration Authority, which office authority

1 is charged with oversight of the design, construction, extension, improvement, repair,  
2 and regulation of hurricane protection and flood control projects in the coastal area.  
3 The Section also provides for the integration of the state's hurricane protection and  
4 flood control efforts with coastal restoration efforts through the Coastal Protection  
5 and Restoration Authority Board.

6 B. Coastal Protection and Restoration Authority duties and responsibilities  
7 regarding hurricane protection and flood control:

8 (1) The ~~office~~ authority shall have oversight of the administration of all  
9 matters related to the studying, planning, engineering, design, construction,  
10 extension, improvement, repair, and regulation of a hurricane protection and flood  
11 control system, including but not limited to the construction and design of a  
12 hurricane protection and flood control system consisting of levees and associated  
13 elements to provide protection against tidal surges within the coastal area.

14 (2) The inspection of hurricane protection and flood control levees and  
15 structures within the coastal area shall be the responsibility of the ~~Office of Coastal~~  
16 Protection and Restoration Authority. The executive director or his designee shall  
17 regularly cause such structures to be inspected and shall maintain a report of such  
18 inspections. The ~~office~~ authority shall establish and implement a comprehensive  
19 hurricane and flood control protection inspection program. Such program shall  
20 include the following:

21 (a) Reviewing of hurricane protection and flood control diagrams, designs,  
22 and plans.

23 (b) Monitoring of defects and problems.

24 (c) Conducting of an inspection of every hurricane protection and flood  
25 control barrier and associated elements at least every five years, or after a hurricane  
26 impacts a hurricane protection and flood control barrier and associated elements. If  
27 a defect or problem is identified, then the authority shall measure and test elevations,  
28 soil conditions, and structural integrity of the hurricane protection and flood control  
29 barrier and associated elements.

1 (d) The ~~office~~ authority shall report a notice of defect in the hurricane  
2 protection and flood control within thirty days of the inspection results to the  
3 appropriate entity or political subdivision. The notice shall contain a description of  
4 the defect. The notice of defect shall be mailed by certified mail or return receipt  
5 requested. The appropriate entity, or political subdivision, shall have forty-five days  
6 from receipt of the notice of defect to provide the ~~office~~ authority with a plan and  
7 ~~timeline~~ time line to remedy the defect.

8 (3) The exercise of any authority with respect to hurricane protection and  
9 flood control by a political subdivision within the coastal area is subject to the  
10 oversight and approval of the ~~office~~ authority in accordance with rules and  
11 regulations adopted by the ~~office~~ authority.

12 (4) No state agency or entity shall enter into a contract with the United States  
13 Army Corps of Engineers which would require the state to assume liability for or  
14 provide the cost of operations and maintenance for a hurricane protection project  
15 unless the contract provides for independent third-party review and evaluation in  
16 accordance with the best available science and technical capabilities to confirm the  
17 project's anticipated level of protection against hurricane flooding prior to the state  
18 or political subdivision assuming liability and operations and maintenance  
19 obligations. The independent third-party reviewer and evaluator provided for in the  
20 contract shall be approved by both the United States Army Corps of Engineers and  
21 the state agency or entity. However, the provisions of this Subsection shall not apply  
22 to contracts for routine maintenance or other minor construction or repairs, or in  
23 cases where there is imminent threat to life or property, or when the chairman of the  
24 Coastal Protection and Restoration Authority Board, with the approval of the ~~Coastal~~  
25 ~~Protection and Restoration Authority~~ board, determines that an emergency exists  
26 whereby compliance with the provisions of this Subsection would create an  
27 unreasonable hardship.

28 (5) No funds of the state nor of any political subdivision or political  
29 corporation of the state shall be used nor provided to the United States or any of its  
30 agencies, by contract, agreement, a required contribution of a project cost-share or

1 otherwise, for the expropriation of property for the purpose of compensatory  
2 mitigation of wetlands or other natural habitat, as authorized or required by state or  
3 federal law, to offset, compensate, or replace actual or anticipated damages to or loss  
4 of wetlands or other natural habitat caused by the Comite River Diversion Project,  
5 Amite River and Tributaries, Louisiana. However, the provisions of this Section  
6 shall not apply where such funds are to be used to obtain property voluntarily offered  
7 for compensatory mitigation purposes, including but not limited to mitigation  
8 banking, property where at least seventy-five percent of the owners have voluntarily  
9 offered the property, or property where the record or apparent owner has voluntarily  
10 offered the property but does not have clear title. Subject to any contrary law or  
11 terms, conditions, or stipulations in the act of sale, donation, contract or other  
12 agreement by which the property was acquired, current property interests or future  
13 property interests acquired for the Comite River Diversion Canal Project or  
14 associated acquisitions may be leased only in accordance with the provisions of  
15 Chapter 10 of Title 41 of the Louisiana Revised Statutes of 1950 and additionally,  
16 such opportunity to lease shall first be offered to the original grantor, donor, vendor,  
17 or his successors in title for the same terms, conditions, and price as the highest  
18 successful bidder.

19 \* \* \*

20 §214.6.6. Infrastructure priority program; applications; evaluations

21 A. Applications for funding of any infrastructure project may be submitted  
22 by any political subdivision of the state. For any infrastructure projects, applications  
23 shall be made to the Coastal Protection and Restoration Authority Board by  
24 November first of each year for consideration of funding in the following fiscal year.  
25 Applications submitted in accordance with the provisions of this Section shall not  
26 be subject to the provisions of R.S. 39:101. Agencies submitting applications for  
27 projects in this program shall be responsible for preparation of applications for their  
28 respective projects. Information to be provided in the application shall include but  
29 not be limited to the following:

30 \* \* \*

C. The applications submitted by agencies shall be evaluated by the Coastal Protection and Restoration Authority Board which shall hold no less than three public hearings in separate locations within the coastal area for the purpose of receiving public testimony and comment from requesting authorities and citizens regarding the proposed infrastructure projects. Such hearings may be held at the same time and location as hearings set for public comment on the annual plan. The ~~office~~ authority shall prioritize and rank such applications. The ~~office~~ authority shall provide its application evaluations to the ~~authority~~ Coastal Protection and Restoration Authority Board.

D. Based upon the evaluations of the ~~office~~ authority, the ~~authority~~ board may compile a list of infrastructure projects to be formally included in the annual plan.

#### §214.6.7. Barrier islands, shoreline stabilization, and preservation

A. The executive director of the ~~Office of~~ Coastal Protection and Restoration Authority shall establish a barrier islands and shorelines stabilization and preservation program. As part of the barrier islands and shorelines program, the ~~office~~ authority shall require that all projects subject to public bid include appropriate dredges for use to stabilize and preserve barrier islands and shorelines. In addition, the ~~office~~ authority shall require that all barrier island stabilization and preservation projects mandate a minimum dune height of eight feet with vegetation where appropriate.

B. By September first each year, the governing authority of each parish which has barrier islands and shorelines shall submit to the ~~office~~ authority and the Coastal Protection and Restoration Authority Board a list of barrier islands and shorelines stabilization and preservation projects requested for that parish. The ~~office~~ authority shall review the projects submitted and by December first of each year shall issue a list which prioritizes those requests.

\* \* \*

E.

\* \* \*

1 (3) Monies appropriated from the fund shall be used exclusively by the  
2 ~~Office of~~ Coastal Protection and Restoration Authority to support the barrier island  
3 stabilization and preservation program.

4 F. The ~~Office of~~ Coastal Protection and Restoration Authority shall annually  
5 submit a barrier island status report to the legislature. The report shall indicate the  
6 condition of all barrier islands, provide the status of all barrier island stabilization  
7 and preservation projects under construction, and shall outline future plans for  
8 restoration and maintenance of the barrier islands and coastal passes. The annual  
9 report shall be submitted to each member of the legislature during the regular session  
10 of the legislature.

11 \* \* \*

12 §214.6.9. Authority for integrated coastal protection surveying

13 The ~~Office of~~ Coastal Protection and Restoration Authority and its authorized  
14 agents, contractors, or and employees shall also have the power to enter upon any  
15 lands, waters, and premises in the state for the purpose of making such surveys,  
16 soundings, drillings, and examinations as may be necessary or convenient for  
17 carrying out the purposes of integrated coastal protection, which entry shall not be  
18 deemed a civil or criminal trespass nor a temporary construction servitude, nor shall  
19 it be deemed an entry under any eminent domain proceedings which may be then  
20 pending, provided that prior written notice of five days to resident owners and fifteen  
21 days to nonresident owners be given to the last record property owner as reflected  
22 in the parish assessment rolls. Written notice shall consist of mailing the notice by  
23 certified mail to the last known address of the owner as shown in the current  
24 assessment records. The ~~Office of~~ Coastal Protection and Restoration Authority  
25 shall indemnify the property owner for any loss or injury resultant from entry upon  
26 the property and shall make reimbursement for any actual damages resulting to  
27 lands, waters, and premises as a result of these activities.

28 \* \* \*

29 §214.61. ~~Office of~~ Coastal Protection and Restoration Authority; acquisition of  
30 property prior to judgment; definitions



A. When the ~~Office of~~ Coastal Protection and Restoration Authority cannot amicably acquire property in the coastal zone needed for barrier island preservation, restoration, or creation for coastal wetlands purposes, it may acquire the same by expropriation and may acquire the property prior to judgment in the trial court as provided in this Part.

\* \* \*

D. As used in this Part:

\* \* \*

(2) "Department" means the ~~state Department of Natural Resources~~ Coastal Protection and Restoration Authority or its successor.

\* \* \*

Section 4. R.S. 56:421(B)(13) and (E)(4), 424(H), 432.1(A), (B), (C)(introductory paragraph) and (1), and (D)(1), and 432.2 are hereby amended and reenacted as follows:

## §421. Oyster Task Force

\* \* \*

B. The task force shall be composed as follows:

\* \* \*

(13) One member appointed by the executive director of the ~~Office of~~  
Coastal Protection and Restoration Authority.

\* \* \*

E. The task force is hereby charged with responsibility to do the following:

\* \* \*

(4) Make recommendations with respect to issues pertaining to the oyster industry and oyster production to the various state agencies charged with responsibility for differing elements of the oyster industry in this state, including the Department of Wildlife and Fisheries, the Department of Natural Resources, and the Office of Coastal Protection and Restoration Authority Board, the Coastal Protection and Restoration Authority, the Department of Health and Hospitals, the governor's executive assistant for coastal activities, and the legislature.

\* \* \*

§424. Taking of oysters

\* \* \*

H. Notwithstanding the provisions of this Section, employees or assigns of the ~~Office of Coastal Protection and Restoration~~ Authority may survey or remove, as a sample, oysters from an oyster lease on state water bottoms in order to make determinations in matters of integrated coastal protection. In order to make such surveys or take such samples, the employees or assigns of the ~~Office of Coastal Protection and Restoration~~ Authority shall first notify the leaseholder in writing of the date and time of the survey or sample at least fifteen days prior to the survey or sampling date. This notification shall be sent by certified mail to the leaseholder at the address on file with the Department of Wildlife and Fisheries. The leaseholder may accompany the person conducting the survey or taking the sample during the survey or sampling or may authorize another person to accompany the person

1 conducting the survey or taking the sample. Such surveys shall be conducted in the  
2 manner provided in procedures promulgated by the ~~Office of~~ Coastal Protection and  
3 Restoration Authority after consideration of recommendations by the Louisiana  
4 Oyster Task Force.

5 \* \* \*

6 §432.1. Oyster Lease Acquisition and Compensation Program

7 A. The legislature hereby acknowledges potential conflicts between the  
8 Department of Wildlife and Fisheries oyster leasing program and the Louisiana  
9 coastal restoration program provided for in R.S. 49:214.1 et seq. Therefore, the  
10 ~~Office of~~ Coastal Protection and Restoration Authority shall develop a program,  
11 subject to the requirements and conditions of this Section, for the acquisition of and  
12 compensation for oyster leases or portions of oyster leases upon which occurs or will  
13 occur dredging, direct placement of dredged or other materials, or other work or  
14 activities necessary for the construction or maintenance of a project for integrated  
15 coastal protection.

16 B. The state of Louisiana, through the ~~Office of~~ Coastal Protection and  
17 Restoration Authority, may acquire any oyster lease, in whole or in part, due to the  
18 impact of dredging, direct placement of dredged or other materials, or other work or  
19 activities necessary for the construction or maintenance of a project for integrated  
20 coastal protection.

21 (1) Acquisition shall be implemented by a notice of acquisition issued to the  
22 leaseholder. Such notice shall specify the acreage acquired and the effective date of  
23 the acquisition. A plat or map depicting the acreage acquired shall be attached to the  
24 notice. The notice and acquisition shall be subject to the following:

25 (a) The ~~Office of~~ Coastal Protection and Restoration Authority shall issue  
26 any such notice in writing to the leaseholder at his address on file with the  
27 Department of Wildlife and Fisheries on the date of issuance, by hand delivery or  
28 certified mail, return receipt requested. If the ~~Office of~~ Coastal Protection and  
29 Restoration Authority attempts such issuance at least once and is unable to deliver  
30 the notice to the leaseholder, the ~~Office of~~ Coastal Protection and Restoration

1        Authority shall reissue the notice to the lessee at his address on file with the  
2        Department of Wildlife and Fisheries on the date of the re-issuance, by regular mail,  
3        and shall publish in the official journal for each parish in which the acquired acreage  
4        is located a summary of the notice including identification of the affected acreage,  
5        the effective date of the acquisition, and a contact person at the ~~Office of Coastal~~  
6        Protection and Restoration Authority for all inquiries regarding the acquisition. The  
7        notice of acquisition may be recorded in the public records of any parish in which  
8        the acquired acreage is located.

9                (b) The acquisition shall be effective on the date specified in the notice of  
10       acquisition regardless of whether the lessee actually receives the notice of  
11       acquisition. Upon the effective date of the acquisition, possession of the affected  
12       acreage shall revert to the state, free and clear of any lease or other obligation or  
13       encumbrance.

14               (c) Lease payments as otherwise required by R.S. 56:428 or 429 shall no  
15       longer be payable for the acquired acreage for the calendar year after the date on  
16       which the notice of acquisition was issued.

17               (d) Upon acquisition of a portion of leased acreage, the lease shall continue  
18       in full force and effect as to the remaining acreage under the lease.

19               (2) The ~~Office of Coastal Protection and Restoration~~ Authority shall  
20       determine the compensation for any acquisition pursuant to this Section in  
21       accordance with rules or regulations adopted by that department after consideration  
22       of recommendations by the Louisiana Oyster Task Force, subject to the following:

23               (a) The ~~Office of Coastal Protection and Restoration~~ Authority shall issue  
24       its determination of compensation to the leaseholder together with the notice of  
25       acquisition and by the same procedure provided for issuance of such notice.

26               (b) The ~~Office of Coastal Protection and Restoration~~ Authority shall consider  
27       any reasonably confirmable data or information provided by the leaseholder or any  
28       other person in making its determination of compensation, provided that the data or  
29       information is submitted in compliance with rules or regulations promulgated by that  
30       department prior to the date of initial issuance of the determination of compensation.

1 Such rules or regulations shall provide the leaseholder at least sixty days in which  
2 to submit such data or information before the initial issuance of the determination of  
3 compensation.

4 (3) The ~~Office of~~ Coastal Protection and Restoration Authority shall issue  
5 payment to the leaseholder in the full amount of its determination of compensation,  
6 except for and less any amount due on recorded liens and encumbrances to be paid  
7 out of said proceeds, together with the notice of acquisition, and by the same  
8 procedure provided for issuance of such notice. Acceptance of such payment shall  
9 not preclude any claim for additional compensation, as provided in this Section. If  
10 the ~~Office of~~ Coastal Protection and Restoration Authority is unable to contact the  
11 leaseholder by the procedure provided in Subparagraph ~~(B)(1)(a) of this Section~~  
12 (1)(a) of this Subsection, that department shall transfer funds in the amount of the  
13 determined compensation except for and less any amount due on recorded liens and  
14 encumbrances to be paid out of said proceeds, to a trust account, instead of attaching  
15 such payment to the reissued notice. Upon request of the leaseholder listed with the  
16 Department of Wildlife and Fisheries on the date notice of acquisition is initially  
17 issued, any such compensation may be withdrawn from the trust account for the  
18 benefit of the leaseholder. Any funds placed in a trust account that remain  
19 unclaimed after a period of five years shall be declared to be abandoned and may be  
20 disposed of pursuant to the Uniform Unclaimed Property Act, R.S. 9:151 et seq.  
21 Any amount due on a recorded lien or encumbrance shall be paid directly to the  
22 holder thereof, with a copy of all documentation of such payment issued to the  
23 leaseholder. If the ~~Office of~~ Coastal Protection and Restoration Authority is unable  
24 to contact the holder of the lien or encumbrance, that department shall transfer funds  
25 in the amount of the lien or encumbrance to a trust account, from which it may be  
26 withdrawn for the benefit of the lien or encumbrance holder.

27 (4) To the extent that the ~~Office of~~ Coastal Protection and Restoration  
28 Authority acquires any lease or portion thereof under this Section in relation to any  
29 project or action for integrated coastal protection performed by any department,  
30 agency, board, commission, or political subdivision of the state other than the ~~Office~~

1           ~~of~~ Coastal Protection and Restoration Authority, such department, agency, board,  
2           commission, or political subdivision shall compensate the ~~Office of~~ Coastal  
3           Protection and Restoration Authority for all costs incurred by the department which  
4           are associated with the acquisition. However, the executive director of the ~~Office of~~  
5           Coastal Protection and Restoration Authority may waive this requirement.

6           C. A leaseholder whose lease is acquired in whole or in part may seek an  
7           administrative hearing through the ~~Office of~~ Coastal Protection and Restoration  
8           Authority as to whether the acquisition due to the impact of dredging, direct  
9           placement of dredged or other materials, or other work or activities necessary for the  
10          construction or maintenance of a project for integrated coastal protection is proper  
11          or whether the compensation issued by the ~~Office of~~ Coastal Protection and  
12          Restoration Authority satisfies the rules or regulations of that department. A  
13          leaseholder whose lease is not acquired but which was impacted by dredging, direct  
14          placement of dredged or other materials, or other work or activities necessary for the  
15          construction or maintenance of a project for integrated coastal protection has  
16          occurred, may also seek an administrative hearing through the ~~Office of~~ Coastal  
17          Protection and Restoration Authority to determine if acquisition of such acreage  
18          would be proper. Adjudication under this Section shall be conducted in accordance  
19          with the following:

20               (1) Adjudication under this Section must be requested in writing and  
21               received by the ~~Office of~~ Coastal Protection and Restoration Authority within sixty  
22               days after issuance of the notice of acquisition, determination of compensation, or  
23               payment as provided in Subsection B of this Section. However, adjudication of the  
24               amount of the compensation must be requested in writing and received by the ~~Office~~  
25               ~~of~~ Coastal Protection and Restoration Authority within two years after completion  
26               of the project for which the lease or portion of the lease was acquired, if the  
27               leaseholder establishes that notice of the acquisition, determination of compensation,  
28               or payment was not issued as required in this Section. Adjudication of the lack of  
29               acquisition of leased acreage upon which dredging, direct placement of dredged or  
30               other materials, or other work or activities necessary for the construction or

1 maintenance of a project for integrated coastal protection has occurred must be  
2 requested in writing and received by the ~~Office of~~ Coastal Protection and Restoration  
3 Authority within two years after completion of the project.

4 \* \* \*

5 D. A leaseholder may seek in accordance with the following, judicial review  
6 of the final decision of the administrative law judge based solely on the  
7 administrative record and, except as otherwise provided in this Section, in  
8 accordance with the provisions of Chapter 13-B of Title 49 of the Louisiana Revised  
9 Statutes of 1950.

10 (1) Any petition for judicial review pursuant to this Subsection must be filed  
11 with the Nineteenth Judicial District Court within sixty days after issuance of the  
12 final decision of the administrative law judge. No petition for judicial review may  
13 be filed, and any such petition is premature, unless adjudication has been timely  
14 sought and all administrative remedies have been exhausted. The petition shall be  
15 served upon the executive director of the ~~Office of~~ Coastal Protection and  
16 Restoration Authority and all parties of record.

17 \* \* \*

18 §432.2. Annual reporting of coastal protection, conservation, and restoration project  
19 status

20 Once per year, in coordination with the Louisiana Oyster Task Force, the  
21 ~~Office of~~ Coastal Protection and Restoration Authority shall provide information to  
22 the Oyster Task Force regarding the nature, location, and status of current or planned  
23 projects for integrated coastal protection to the extent practical.

24 Section 5. R.S. 49:214.3.1(A)(4) and 214.6.8 are hereby repealed in their entirety.

25 Section 6. The Coastal Protection and Restoration Authority Board and the Coastal  
26 Protection and Restoration Authority are hereby assigned and subsume all of the duties and  
27 responsibilities previously exercised by any other state agency, including but not limited to  
28 the Office of Coastal Protection and Restoration, the Department of Natural Resources, the  
29 Department of Transportation and Development, office of public works, and the Department  
30 of Wildlife and Fisheries with regard to previously executed agreements and contracts, the

1 purposes of which are under the duties, jurisdiction, responsibilities, and powers granted to  
2 the Coastal Protection and Restoration Authority Board or the Coastal Protection and  
3 Restoration Authority. The Coastal Protection and Restoration Authority Board or the  
4 Coastal Protection and Restoration Authority is hereby given the power to execute, sign,  
5 modify, amend, and renew any such agreement on its own behalf or on behalf of the state  
6 of Louisiana.

7       Section 7. All unfinished business, references in laws and documents, employees,  
8 property, obligations, and books and records of the prior plans, projects, policies, and  
9 programs assumed by this Act into the Coastal Protection and Restoration Authority Board  
10 or the Coastal Protection and Restoration Authority shall be transferred as provided in this  
11 Section. Any pending or unfinished business of the prior plans, projects, policies, and  
12 programs shall be taken over and be completed by the authority or by the Coastal Protection  
13 and Restoration Authority Board with the same power and authorization as that of prior  
14 plans, projects, policies, and programs and the authority or the board shall be the successor  
15 in every way to the prior plans, projects, policies, and programs for the purpose of  
16 completing such business. Any reference in laws and documents to either of the prior plans,  
17 projects, policies, and programs shall be deemed to apply to the authority or the board. Any  
18 legal proceeding to which the prior plans, projects, policies, and programs are a party and  
19 which is filed, initiated, or pending before any court on the effective date of this Section, and  
20 all documents involved in or affected by said legal proceeding, shall retain their  
21 effectiveness and shall be continued in the name of the authority or the board. All further  
22 legal proceedings and documents in the continuation, disposition, and enforcement of such  
23 legal proceeding shall be in the name of the authority or the board, and the authority or the  
24 board shall be substituted for the prior plans, projects, policies, and programs without  
25 necessity for amendment of any document. This Act shall not be construed so as to impair  
26 the effectiveness of any rule or policy of either of the prior plans, projects, policies, and  
27 programs and any such rule or policy shall remain effective as provided therein or until  
28 changed in accordance with law. This Act shall not be construed so as to impair the  
29 contractual or other obligations of either of the prior plans, projects, policies, and programs  
30 or of the state of Louisiana. All obligations of the prior plans, projects, policies, and



1 programs shall be the obligations of the authority or the board. The authority or the board  
2 shall be the successor in every way to the prior plans, projects, policies, and programs,  
3 including all of their obligations and debts. All dedications and allocations of revenues and  
4 sources of revenues heretofore made to or for either of the prior plans, projects, policies, and  
5 programs shall continue in the same manner, to the same extent, and for the same purposes  
6 as were provided prior to the enactment of this Act, unless and until other provision is made  
7 therefor. All books, papers, records, money, actions, and other property of every kind,  
8 movable and immovable, real and personal, heretofore possessed, controlled, or used by  
9 either of the prior plans, projects, policies, and programs are hereby transferred to the new  
10 office or the authority. All employees heretofore engaged in the performance of duties of  
11 the prior plans, projects, policies, and programs, insofar as practicable and necessary, are  
12 transferred to the new office and insofar as practicable and necessary shall continue to  
13 perform the duties heretofore performed, subject to policies and procedures of the authority,  
14 applicable state civil service laws, rules, and regulations, and other applicable laws. Subject  
15 to such laws, positions in the unclassified service shall remain in the unclassified service.

16 Section 8. If and when this Act is finally passed by the legislature and enacted into  
17 law, the Louisiana State Law Institute is hereby directed to correct references to the Coastal  
18 Protection and Restoration Authority and the Office of Coastal Protection and Restoration  
19 contained in any other act of the 2012 Regular Session so that those references are in  
20 compliance with intentions of the provisions of this Act.

21 Section 9. This Act shall become effective upon signature by the governor or, if not  
22 signed by the governor, upon expiration of the time for bills to become law without signature  
23 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
24 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
25 effective on the day following such approval.

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_